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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

EUGENE DAVIS,

Plaintiff

vs.

CITY OF SEATTLE, SEATTLE PUBLIC
LIBRARY, SECURITY OFFICER JOHN
DOE, OFFICER MARTELLI, and OFFICER
D.M. JONES,

Defendants

No. **C09 1148** MJP
COMPLAINT



09-CV-01148-CMP

COME NOW the plaintiff, EUGENE DAVIS, by and through his attorney John Scannell, and seeking damages against the above named defendants: CITY OF SEATTLE, SEATTLE PUBLIC LIBRARY, SECURITY OFFICER JOHN DOE, OFFICER MARTELLI and OFFICER D.M. JONES,

The civil claims include offenses committed under color of law resulting in a deprivation of rights secured by the Constitution and laws of the United States of America.

I. PARTIES, JURISDICTION, VENUE

This action is brought under 42 U.S.C. §1983 (Civil Rights Act of 1871) relating to the plaintiff's exercise of his rights under the Constitution of the United States.

1. The plaintiff is a resident of King County, Washington.

IFP App/No Iss.

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4 2. The defendant City of Seattle is a Municipal Corporation doing business in King
5 County Washington. The Seattle Public Library is a Department of the City of Seattle.

6 3. Officer John Doe is an employee of the Seattle Public Library. Officer Martelli and
7 Officer D.M. Jones are employees of the City of Seattle.

8 4. The acts complained of occurred in King County, Washington.

9 5. At all times relevant hereto each of the defendants was acting as an agent of each of
10 the other defendants.

11 6. Jurisdiction is conferred on the court by virtue of 29 U.S.C §1331, §1334, §1343.
12 Venue in this district is appropriate pursuant to Title 28, United States Code, §1391, because the
13 pertinent events took place in this district.

14 II. FACTS

15 7. The plaintiff is a citizen of the United States of America and is of Afro-American
16 descent.

17 8. On or about January 16th, 2008, the plaintiff was in the Seattle Public Library quietly
18 reading some books when Defendant John Doe, without provocation, flagged down Officer
19 Martelli for the purpose of removing the plaintiff from the library. Officer Doe wanted to have
20 the defendant removed because plaintiff was critical defendant's treatment of library patrons such
21 as himself in the past.

22 9. When defendant Martelli and defendant D.J. Jones arrived on the scene they spoke to
23 the defendant, first in the lobby and then in the parking lot. At both places the plaintiff criticized
24 the police officers for their treatments of patrons by evicting them from the premises without an
25 adequate investigation. He particularly protested over the treatment of himself as an Afro-
26 American. Defendants Martelli and Jones then ejected the plaintiff from the library, not because
27 he was creating a disturbance but because he was protesting the unfair treatment of library
28 patrons like himself, by the officers.

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5 10. The defendants then issued an exclusion order to retaliate against the plaintiff for his
6 protesting of the wrongful actions of the defendants.

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8 **III. FIRST CAUSE OF ACTION: VIOLATION OF THE FIRST AMENDMENT RIGHT**
9 **TO FREE SPEECH AS APPLIED TO THE STATES THROUGH THE FOURTEENTH**
10 **AMENDMENT TO THE UNITED STATES CONSTITUTION.**

11 11. Plaintiff hereby incorporates and realleges as if fully set forth herein each and every
12 allegation of paragraphs 1 through 10.

13 12. The acts and omissions of the defendants herein were done under color of state law,
14 custom or usage.

15 13. Plaintiff Eugene Davis, had a federally-protected right, under the freedom of speech
16 and assembly provisions of the United States Constitution, as applied to the states through the
17 Fourteenth Amendment to the United States Constitution, to indicate through his words and/or
18 non-violent actions that the defendants were unfair in their treatment of both himself and other
19 citizens.

20 14. The acts and omissions of defendants herein proximately caused the deprivation of
21 the First Amendment rights of plaintiff Eugene Davis, as applied to the states through the
22 Fourteenth Amendment to the United States Constitution

23 **SECOND CAUSE OF ACTION: VIOLATION OF THE**
24 **FOURTH AMENDMENT PROHIBITION AGAINST UNREASONABLE SEIZURES**

25 15. Plaintiff hereby incorporates and realleges as if fully set forth herein each and every
26 allegation of paragraphs 1 through 14

27 16. Plaintiff Eugene Davis was seized for the purposes of the Fourth Amendment to the
28 United States Constitution as applied to the states through the Fourteenth Amendment to the
United States Constitution, by the acts and omissions of the defendants.

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4 17. Plaintiff Eugene Davis, has rights, protected under the Fourth Amendment of the
5 United States Constitution as applied to the states through the Fourteenth Amendment to the
6 United States Constitution, not to be subjected to an unreasonable seizure.

7 18. The acts and omissions of the defendants herein proximately caused the deprivation
8 of the Fourth and Fourteenth Amendment rights of plaintiff Eugene Davis

9 19. As a proximate result of the acts and omissions of the defendants and deprivation of
10 plaintiff's Fourth and Fourteenth Amendment rights, plaintiff has suffered personal injuries as set
11 forth hereinabove.

12 **THIRD CAUSE OF ACTION: VIOLATION OF THE FOURTEENTH AMENDMENT**
13 **DUE PROCESS CLAUSE**

14 20. Plaintiff hereby incorporates and realleges each and every allegation of paragraphs 1
15 through 19, as if fully set forth herein.

16 21. Plaintiff Eugene Davis has a right, under the Due Process Clause of the Fourteenth
17 Amendment to the United States Constitution, to remain in a public place of his choice.

18 22. The acts and actions of the defendants herein proximately caused the deprivation of
19 plaintiff's Fourteenth Amendment rights.

20 23. As a proximate result of the acts and omissions of the defendants and deprivation of
21 plaintiffs' Fourteenth Amendment rights, the plaintiff has suffered personal injuries as set forth
22 hereinabove.

23 **FOURTH CAUSE OF ACTION: MUNICIPAL LIABILITY OF THE CITY OF**
24 **SEATTLE**

25 24. Plaintiff hereby incorporates and realleges each and every allegation of paragraphs 1
26 through 23, as if fully set forth herein.

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4 25. At all times material to this complaint, defendant City of Seattle, had in effect certain
5 explicit and de facto policies, practices and customs which were applied to the treatment of
6 persons who frequent their public libraries.

7 26. These policies, practices and customs were maintained with deliberate, reckless
8 and/or callous indifference to the constitutional rights of the plaintiffs as set forth hereinabove.

9 27. The above described policies, practices and customs of defendant City of Seattle
10 proximately caused the deprivation of the First, Fourth and Fourteenth Amendment rights of the
11 plaintiffs, jointly and severally.

12 28. As a proximate result of the above the above described policies, practices and
13 customs of defendant City of Seattle, and as a result of the deprivation of plaintiffs' First, Fourth
14 and Fourteenth Amendment rights, plaintiff has suffered personal injuries as set forth
15 hereinabove.

16 29. At all times material herein, defendant City of Seattle had a duty, under the United
17 States Constitution, to supervise its police officers properly.

18 30. At all times material herein, defendant City of Seattle had a duty, under the Fourth
19 Amendment of the United States Constitution, to adequately train its security guards not to
20 threaten its citizens for exercising their first amendment rights.

21 31. Defendant City of Seattle failed to train properly or supervise properly John Doe,
22 Officer Martelli, and Officer Jones

23 32. The above-described failures to supervise and to train were maintained with
24 deliberate, reckless and/or callous indifference to the constitutional rights of rights of the plaintiff
25 as set forth hereinabove.

26 33. The above-described failures by defendant City of Seattle to supervise and to
27 adequately train the security guards properly proximately caused the deprivation of the
28 constitutional rights of plaintiff Eugene Davis as set forth hereinabove.

34. The above-described failure by defendant City of Seattle to properly supervise and to adequately train the defendants and the resulting deprivation of plaintiff Eugene Davis' constitutional rights, caused the plaintiff to suffer personal injuries as set forth hereinabove.

FIFTH CAUSE OF ACTION - RCW 49.60.215 - WRONGFUL EJECTMENT AND EXCLUSION ON THE BASIS OF RACE

35. Plaintiff hereby incorporates and realleges each and every allegation of paragraphs 1 through 34.

36. Defendants' actions had the effect of denying the plaintiff access to a place of public resort, accommodation, assemblage, or amusement on the basis of his race in violation RCW 49.60.215.

IV. DAMAGES

37. As a result of the actions of the defendants as above alleged, the plaintiff has been damaged in an amount to be proven at trial.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in his favor

(A) Order defendants to pay to plaintiff compensatory damages in an amount to be proven at trial.

(B) Order defendants to pay to plaintiff punitive damages.

(C) Order defendants to pay plaintiffs' reasonable attorney fees, and costs.

(D) Order such other and further relief as the court may deem to be just and proper.

DATED this 12th day of August, 2009.



John Scannell
Attorney for plaintiff